



CALIFORNIA STATE PERSONNEL BOARD MEETING

801 Capitol Mall
Sacramento, California

Public Session Location –

The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Midway Room
Los Angeles, CA 90045

Teleconference – 320 West 4th Street
Los Angeles, California, Suite 620

Closed Session Location –

The Westin Los Angeles Airport Hotel
5400 West Century Boulevard
Midway Room
Los Angeles, CA 90045

Teleconference – 320 West 4th Street
Los Angeles, California Suite 620

SUMMARY MINUTES – AUGUST 8, 2006

SUMMARY MINUTES¹

AUGUST 8, 2006

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

1. ROLL CALL

William Elkins, President
Sean Harrigan, Vice President
Maeley Tom, Member
Anne Sheehan, Member

2. REPORT OF THE EXECUTIVE OFFICER – Floyd D. Shimomura

- A. The Governor issued an executive order that directs the Office of Emergency Services (OES) to develop a continuity of operations plan for the State of California. The plan is to keep California government operating in the event of a major disaster such as a flood, earthquake, fire, terrorist attack, etc. The State Personnel Board and other departments are working with OES to help develop this plan and the SPB has a deadline of September 30, 2006, to submit its part.
- B. The ALJ's proposed decisions will be in a different format beginning with the September binders. Any feedback from the Board would be welcome.
- C. The Board has 36 departments to meet with to obtain feedback on its EEO and other programs. The Board and the SPB staff discussed ways to improve attendance and the content and efficiency of the meetings.

3. REPORT OF THE CHIEF COUNSEL – Elise Rose

- McCollum v. State – hearing on State's Motion to Dismiss held on June 30, 2006. SPB has not been informed of any ruling in that matter since hearing that the judge took the matter under submission.
- Jerold Elliott v. CSU – Elliott filed a petition for rehearing with court of appeal after court held that CSU could not amend the disciplinary action to remove the charge of sexual harassment and then continue with action. The Board upheld discipline based on unprofessional conduct.
- Sandra Essex v. CDCR – Board decision affirming dismissal based on undue familiarity upheld by the superior court.

¹ The Minutes for the Board Meeting can be obtained at the following internet address:
<http://www.spb.ca.gov/calendar.htm>

- Plata v. CDCR – no update regarding receiver's intentions regarding modification of disciplinary process for physicians.

4. NEW BUSINESS

NONE PRESENTED

5. REPORT ON LEGISLATION – Sherry Evans

- AB 2241 got out of Appropriations with no "No" votes

6. ORAL ARGUMENT

Oral argument in the matter of **DANNY BROWN, CASE NO. 05-2209A**. Appeal from dismissal. Correctional Officer. Department of Corrections and Rehabilitation.

Persons Participating:

Dawn Whitney, Staff Counsel, Department of Corrections and Rehabilitation (CDCR), representing department
Chris Howard, Staff Counsel, California Correctional Peace Officers Association (CCPOA), representing appellant

ACTION: SUBMITTED

7. ORAL ARGUMENT

Oral argument in the matter of **LEE KENDRICK, III, CASE NO. 04-1620PA**. Appeal from dismissal. Transportation Surveyor. Department of Transportation.

Persons Participating:

Gerald James, Labor Relations Counsel, Professional Engineers in California Government (PECG), representing appellant
Raymond Barrera, Deputy State Attorney, Department of Transportation, representing department

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

8. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND OTHER APPEALS

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

9. ORAL ARGUMENT

Oral argument in the matter of **RAYMOND SLEDGE, CASE NO. 04-2809PA**.
Appeal from dismissal. Youth Correctional Officer. Department of the Youth
Authority.

Persons Participating:

Barrett W. McInerney, Labor Relations Counsel, Department of Personnel
Administration, representing department
Chris Uyemura, Staff Legal Counsel, California Correctional Peace Officers
Association (CCPOA), representing appellant

ACTION: SUBMITTED

CLOSED SESSION OF THE STATE PERSONNEL BOARD

**10. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, AND
OTHER APPEALS**

Deliberations to consider matter submitted at prior hearing.
[Government Code Sections 11126(d), 18653.]

**11. DELIBERATION ON ADVERSE ACTIONS, DISCRIMINATION COMPLAINTS,
AND OTHER PROPOSED DECISIONS SUBMITTED BY ADMINISTRATIVE
LAW JUDGES**

Deliberations on matters submitted at prior hearing; on proposed, rejected,
remanded, and submitted decisions; petitions for rehearing; and other matters
related to cases heard by administrative law judges of the State Personnel Board
or by the Board itself. [Government Code Sections 11126 (d), and 18653 (2).]
(See Action Taken on Pages 10–15)

12. PENDING LITIGATION

Conference with legal counsel to confer with and receive advice regarding
pending litigation when discussion in open session would be prejudicial.
[Government Code sections 11126(e)(1) and 18653.]

Connerly v. State Personnel Board, California Supreme Court,
Case No. S125502.

International Union of Operating Engineers v. State Personnel Board,
Public Employment Relations Board (PERB) Case No. SA-CE-1295-S.

13. RECOMMENDATIONS TO THE LEGISLATURE

Deliberations on recommendations to the legislature.
[Government Code section 18653.]

NO ACTION

14. RECOMMENDATIONS TO THE GOVERNOR

Deliberations on recommendations to the Governor.
[Government Code section 18653.]

NO ACTION

PUBLIC SESSION OF THE STATE PERSONNEL BOARD

15. DISCUSSION OF COMING BOARD MEETING SCHEDULE OF SEPTEMBER 5-6, 2006, IN SACRAMENTO, CALIFORNIA

The September 5-6, 2006, Board Meeting in Sacramento has been changed to a one day meeting only, on Tuesday, September 5, 2006.

BOARD ACTIONS:

16. ADOPTION OF THE STATE PERSONNEL BOARD SUMMARY MINUTES OF JULY 11, 2006

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

17. EVIDENTIARY CASES

ACTION: See Case Listings on Pages 10–18

18. RESOLUTION EXTENDING TIME UNDER GOVERNMENT CODE SECTION 18671.1 EXTENSION - (See Minutes on Pages 24–25)

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

19. NON-EVIDENTIARY CASES

ACTION: See Case Listings on Pages 18–21

20. NON-HEARING CALENDAR

The following proposals were made to the State Personnel Board by either the Board staff or Department of Personnel Administration staff.

On August 8, 2006, the following proposals were presented to the Board by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

ACTION: ADOPTED

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

A. BOARD ITEMS PRESENTED BY STATE PERSONNEL BOARD OR DEPARTMENT OF PERSONNEL ADMINISTRATION TO ESTABLISH, REVISE OR ABOLISH CLASSIFICATIONS, ALTERNATE RANGE CRITERIA, ETC.

NONE

B. ABOLISHMENT OF CLASSES THAT HAVE HAD NO INCUMBENTS FOR MORE THAN TWO YEARS. DEPARTMENTS THAT UTILIZE THE CLASS AS WELL AS THE APPROPRIATE UNION HAVE NO OBJECTION TO THE ABOLISHMENT OF THESE CLASSES.

THE DEPARTMENT OF PERSONNEL ADMINISTRATION AND STATE PERSONNEL BOARD propose to abolish the following unused classifications, which have been vacant for more than twenty-four months. Departments that utilize the class as well as the appropriate union have no objection to the abolishment of these classes.

Title	Class Code
Highway Outdoor Advertising Inspector	8851
Electrical Project Inspector (Various Sites)	6163
Mechanical Project Inspector (Various Sites)	6162
Alcoholic Beverage Control Counsel I	5823
Alcoholic Beverage Control Counsel II	5831
Alcoholic Beverage Control Counsel III	5868
Legislative and Public Affairs Coordinator, Office of Administrative Law	5317
Deputy Workers' Compensation Appeals Board, CEA	5845
Medical Director Division of Industrial Accidents, CEA	7808
Farm Hand	637
Assistant Chief, Producer Licensing, Department of Insurance	8809
Chief, Producer Licensing, Department of Insurance	8807

21. STAFF CALENDAR ITEMS FOR BOARD INFORMATION

NONE

22. CAREER EXECUTIVE ASSIGNMENT (CEA) CATEGORY ACTIVITY

This section of the Minutes serves to inform interested individuals and departments of proposed and approved CEA position actions.

A. REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS CURRENTLY UNDER CONSIDERATION

PROJECT DIRECTOR, WASTE COMPLIANCE AND MITIGATION PROGRAM

The California Integrated Waste Management Board proposes to re-allocate their existing CEA position titled Deputy Director, Diversion, Planning and Local Assistance Division to the above position. The Program Director, Waste Compliance and Mitigation Program, is responsible for setting departmental program policy and making legislative recommendations to the Executive Director based upon principles of integrated waste management planning and environmental and fiscal impact.

PROJECT DIRECTOR, SUSTAINABILITY PROGRAM

The California Integrated Waste Management Board proposes to reallocate their existing CEA position titled Deputy Director, Waste Prevention and Market Development, to the above position. The Project Director, Sustainability Program is responsible for developing and implementing statewide policies and programs concerned with overseeing and assisting local governments and state agencies in achieving statutorily mandated waste diversion goals; develops, recommends and implements programs to increase public participation in all aspects of waste reduction.

B. EXECUTIVE OFFICER DECISIONS REGARDING REQUESTS TO ESTABLISH NEW OR REVISE EXISTING CEA POSITIONS

**ASSISTANT SECRETARY, POLICY AND FINANCE
ASSISTANT SECRETARY, WATER MANAGEMENT AND
REGIONAL COORDINATION**

The California Bay Delta Authority has withdrawn their proposals to allocate the above positions to the CEA category effective July 12, 2006.

DEPUTY DIRECTOR, OFFICE OF PROBLEM GAMBLING

The Department of Alcohol and Drug Program's proposal to permanently allocate the above position to the CEA category has been approved effective July 13, 2006. This position was originally approved for a one-year period on November 30, 2004, and on November 29, 2005, a one-year extension was authorized.

**NORTHERN AREA ADMINISTRATOR
SOUTHERN AREA ADMINISTRATOR**

The Department of Employment Development's proposal to allocate the above positions to the CEA category has been approved effective June 30, 2006.

**DEPUTY EXECUTIVE DIRECTOR, CALIFORNIA POLLUTION
CONTROL FINANCING AUTHORITY**

The California Pollution Control Financing Authority's proposal to allocate the above position to the CEA category has been approved effective July 10, 2006.

CHIEF INVESTIGATIONS BRANCH

The Department of Social Service's request to allocate the above position to the CEA category has been approved for a period of twenty-four months effective July 10, 2006.

**DEPUTY DIRECTOR, STATEWIDE TELECOMMUNICATIONS
DEPUTY DIRECTOR, ADMINISTRATION DIVISION
DEPUTY DIRECTOR, ENGINEERING DIVISION**

The Department of Technology Services' proposal to allocate the above positions to the CEA category has been approved effective July 10, 2006.

**CHIEF, FIELD EXAMINATION DIVISION
CHIEF, FINANCIAL ANALYST DIVISION**

The Department of Insurance's proposal to allocate the above positions to the CEA category has been approved effective July 10, 2006.

**DIRECTOR, OFFICE OF SYSTEM INTEGRATION, AGENCY
INFORMATION OFFICER**

The Department of Health and Human Services proposal to combine the duties of two existing CEA allocations: the Agency Information Office; and the Assistant Director, Office of Systems Integration into the above titled CEA allocation has been approved effective July 13, 2006.

CHIEF COUNSEL

The Department of Aging has withdrawn their proposal to allocate the above position to the CEA category effective July 14, 2006.

**CHIEF, ADMINISTRATIVE OFFICER DIRECTOR OF HUMAN
RESOURCES SENIOR SCIENCE AND POLICY OFFICER**

The Department of Food and Agriculture has withdrawn their proposals to allocate the above positions to the CEA category effective July 10, 2004.

ACTION: NOTED

23. EMPLOYEE APPOINTMENTS, DISCIPLINARY MATTERS, & OTHER APPEALS

Deliberations to consider matter submitted at prior hearing. [Government Code sections 11126(d), 18653.]

24. WRITTEN STAFF REPORT FOR BOARD INFORMATION

2003-2004 Statewide Language Survey and Implementation Plans, Report to the Legislature. Report to the Legislature transmitting the results of the 03-04 language survey and implementation plans conducted by state departments, mandated by the Dymally-Alatorre Bilingual Services Act, Government Code Section 7299.6.

ACTION: APPROVED

25. PRESENTATION OF EMERGENCY ITEMS AS NECESSARY

NONE

26. BOARD ACTIONS ON SUBMITTED ITEMS

ACTION: See Minutes on Pages 22–23

A D J O U R N M E N T

WHAT FOLLOWS IS A RECORD OF ACTION TAKEN ON AGENDA ITEMS 17 – 19 AS NOTED.

17. EVIDENTIARY CASES

The Board Administrative Law Judges conduct evidentiary hearings in appeals that include, but are not limited to, adverse actions, medical terminations, demotions, discrimination, reasonable accommodations, and whistleblower complaints.

A. BOARD CASES SUBMITTED

These items have been taken under submission by the State Personnel Board at a prior meeting.

On August 8, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **PRECILLA CALAUNAN, CASE NO. 05-1737RPA**
Appeal from dismissal
Classification: Psychiatric Technician Assistant
Department: Department of Developmental Services

Petition for Rehearing granted March 8, 2006.
Oral argument heard July 11, 2006, Sacramento.
Case ready for decision by FULL Board.

NO ACTION

- (2) **PAUL CHATHAM, CASE NO. 05-1287A**
SARAH WIRTH, CASE NO. 05-1599A
Appeal from five percent reduction in salary for six months and two work days suspension
Classification: Correctional Lieutenant and Correctional Sergeant
Department: Department of Corrections and Rehabilitation

Proposed decision rejected May 2, 2006.
Oral argument heard July 11, 2006, Sacramento.
Case ready for decision by FULL Board.

NO ACTION

- (3) **JUDY JOHNSON, CASE NO. 05-1367A**
Appeal from automatic resignation
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles

Proposed decision rejected February 21, 2006.
Oral argument (written record) submitted May 2, 2006,
Los Angeles.
Case ready for decision by FULL Board.

ACTION: The Board issued a non-precedential decision revoking the Department of Motor Vehicle's attempt to terminate appellant's employment as a permanent-intermittent Motor Vehicle Field Representative pursuant to the "automatic resignation" provisions of SPB rule 448. Appellant is reinstated to her position with all appropriate back pay and benefits.

B. CASES PENDING

ORAL ARGUMENTS

These cases were on calendar to be argued at this meeting or to be considered by the Board in closed session based on written argument submitted by the parties.

On August 8, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **DANNY BROWN, CASE NO. 05-2209A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the appellant's dismissal.

- (2) **LEE KENDRICK, III, CASE NO. 04-1620PA**
Appeal from dismissal
Classification: Transportation Surveyor
Department: Department of Transportation

ACTION: SUBMITTED

- (3) **RAYMOND SLEDGE, CASE NO. 04-2809PA**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority
ACTION: SUBMITTED

C. CHIEF COUNSEL RESOLUTIONS

NONE

COURT REMANDS

NONE

STIPULATIONS

NONE

D. ADMINISTRATIVE LAW JUDGE'S (ALJ) PROPOSED DECISIONS

PROPOSED DECISIONS

These were ALJ proposed decisions submitted to the Board for the first time.

On August 8, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **ANDREW DASHIELL, CASE NO. 06-3382**
Appeal from dismissal
Classification: Physician and Surgeon, Correctional Facility
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (2) **ROBERT FONTES, CASE NO. 04-2245**
Appeal from dismissal
Classification: Caltrans Equipment Operator II
Department: Department of Transportation
ACTION: The Board adopted the ALJ's Proposed Decision with a special resolution.

- (3) **DARLENE LUSSIER, CASE NO. 06-0561**
Appeal from ten percent reduction in salary for twelve months
Classification: Registered Nurse
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.
- (4) **PATRICK NATION, CASE NO. 04-1084**
Appeal from dismissal
Classification: Officer, CHP
Department: Department of California Highway Patrol
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the dismissal.
- (5) **NICHOLAS ORLANDO, CASE NO. 05-1875**
Appeal from rejection during probationary period
Classification: Equipment Material Specialist
Department: Department of Transportation
ACTION: The Board rejected the ALJ's Proposed Decision.
- (6) **FILEMON RODRIGUEZ, CASE NO. 06-0044**
Appeal from official reprimand
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the official reprimand.
- (7) **JEFFREY SIMMONS, CASE NO. 05-3426**
Appeal from five percent reduction in salary for four months
Classification: Water and Sewage Plant Operator
Department: Department of Forestry and Fire Protection
ACTION: The Board adopted the ALJ's Proposed Decision modifying the reduction in salary.
- (8) **JACINTO TUMBAGA, JR., CASE NO. 05-4416**
Appeal from ten percent reduction in salary for 13 pay periods
Classification: Medical Technical Assistant (Correctional Facility)
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary.

- (9) **STEPHEN WANAGITIS, CASE NO. 06-0001**
Appeal from five percent reduction in salary for 24 months
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
ACTION: The Board adopted the ALJ's Proposed Decision
revoking the reduction in salary.
- (10) **RUI ZHANG, CASE NO. 05-2713**
Appeal from disciplinary transfer
Classification: Transportation Engineer (Civil)
Department: Department of General Services
ACTION: The Board adopted the ALJ's Proposed Decision
sustaining the transfer.

PROPOSED DECISIONS TAKEN UNDER SUBMISSION AT PRIOR MEETING

NONE

PROPOSED DECISIONS AFTER BOARD REMAND

- (11) **KEVIN REDDINGTON, CASE NOS. 03-2646R & 04-0386R**
Appeal from ten percent reduction in salary for 6 pay periods and dismissal
Classification: Office Technician (Typing)
Department: Department of Forestry and Fire Protection
ACTION: The Board adopted the ALJ's Proposed Decision sustaining the reduction in salary and the dismissal.

PROPOSED DECISIONS AFTER SPB ARBITRATION

NONE

E. PETITIONS FOR REHEARING

ALJ PROPOSED DECISIONS ADOPTED BY THE BOARD

The Board voted to grant or deny a petition for rehearing filed by one or both parties, regarding a case already decided by the Board.

On August 8, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **ROSIE CAMPBELL, CASE NO. 05-3117P**
Appeal from demotion
Classification: Office Services Supervisor II
Department: Department of Social Services
ACTION: Petition for rehearing denied.
- (2) **RANDY PEREGRINO, CASE NO. 05-3092P**
Appeal from dismissal
Classification: Motor Vehicle Field Representative
Department: Department of Motor Vehicles
ACTION: Petition for rehearing denied.
- (3) **JAMIE SHAW, CASE NO. 00-2381PA**
Appeal for merit issue complaint
Classification: Correctional Sergeant
Department: Department of Corrections and Rehabilitation
ACTION: Petition for rehearing granted.
- (4) **EDUARDO VICENTE, CASE NO. 05-3717P**
Appeal from five percent reduction in salary for twelve months
Classification: Parole Agent I
Department: Department of Corrections and Rehabilitation
ACTION: Petition for rehearing denied.

WHISTLEBLOWER NOTICE OF FINDINGS

NONE

F. PENDING BOARD REVIEW

These cases were pending preparation of transcripts, briefs, or the setting of oral argument before the Board.

On August 8, 2006, the Board took the following action on the cases listed as presented by Elise Rose, Chief Counsel, California State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **DANNY BROWN, CASE NO. 05-2209A**
Appeal from dismissal
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected April 4, 2006.
Pending oral argument August 8, 2006, Los Angeles

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the appellant's dismissal.

- (2) **JACK FRIEDMAN, M.D., CASE NO. 05-2596A**
JOHN S. COLOCOUSIS, M.D., CASE NO. 05-2592A
Appeal from formal reprimand and formal reprimand and five work days suspension
Classification: Physician and Surgeon, Correctional Facility
Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 6, 2006.
Pending oral argument October 10, 2006, Sacramento.

NO ACTION

- (3) **GAIL GARCIA, CASE NO. 05-3030A**
Appeal from constructive demotion
Classification: Office Technician
Department: Department of Developmental Services

Proposed decision rejected May 2, 2006.
Pending oral argument August 8, 2006, Los Angeles.
Oral argument continued.

NO ACTION

- (4) **RAYMOND GURULE, CASE NO. 05-1351A**
Appeal from dismissal
Classification: Youth Correctional Officer
Department: Department of the Youth Authority

Proposed decision rejected April 4, 2006.
Oral argument originally set August 8, 2006, Los Angeles.
Continued to September 5, 2006, Sacramento.

NO ACTION

- (5) **LEE KENDRICK, CASE NO. 04-1620PA**
Appeal from dismissal
Classification: Transportation Surveyor
Department: Department of Transportation

Petition for Rehearing granted April 4, 2006.
Pending oral argument August 8, 2006, Los Angeles

ACTION: SUBMITTED

- (6) **CHAD LOOK, CASE NO. 04-1789APB**
Appeal for back pay
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 21, 2006.
Transcript prepared.

NO ACTION

- (7) **TIFFANY MIRANDA, CASE NO. 05-4330A**
Appeal from dismissal
Classification: Custodian Supervisor II
Department: Department of Corrections and Rehabilitation

Proposed decision rejected June 21, 2006.
Transcript prepared.

NO ACTION

- (8) **DEYANIRA MOLINA, CASE NO. 05-1567A**
Appeal from dismissal
Classification: Housing Finance Specialist (General)
Department: California Housing Finance Agency

Proposed decision rejected July 11, 2006.
Pending transcript.

NO ACTION

- (9) **JONATHAN SILVERMAN, CASE NO. 05-0078A**
Appeal from dismissal
Classification: Workers' Compensation Payroll Auditor
Department: State Compensation Insurance Fund

Proposed decision rejected May 23, 2006.
Pending oral argument September 5, 2006, Sacramento.

NO ACTION

- (10) **RAYMOND SLEDGE, CASE NO. 04-2809PA**
Appeal from dismissal
Classification: Youth Correctional Counselor
Department: Department of the Youth Authority

Petition for Rehearing granted March 8, 2006.
Pending oral argument August 8, 2006, Los Angeles.

ACTION: SUBMITTED

- (11) **JAMES STEED, CASE NO. 05-0207PA**
Appeal from constructive medical suspension
Classification: Facility Captain
Department: Department of Corrections and Rehabilitation
- Petition for Rehearing granted March 8, 2006.
Oral argument originally set August 8, 2006, Los Angeles.
Continued to October 10-11, 2006, Sacramento.

NO ACTION

19. NON-EVIDENTIARY CASES

A. WITHHOLD APPEALS

Cases were heard by a Staff Hearing Officer, a managerial staff member of the State Personnel Board or investigated by Appeals Division staff. The Board was presented recommendations by a Staff Hearing Officer or Appeals Division staff for final decision on each appeal.

WITHHOLD FROM CERTIFICATION
CASES HEARD BY A STAFF HEARING OFFICER

NONE

WITHHOLD FROM CERTIFICATION
CASES NOT HEARD BY A STAFF HEARING OFFICER

On August 8, 2006, the Board adopted, as indicated below, the following items as presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

- (1) **ANTWAN BLUTHENTHAL, CASE NO. 05-2826**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information, furnished inaccurate information, and had a negative employment and military record.
ACTION: DENIED
- (2) **WAYNE BRENNER, CASE NO. 05-2546**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information.
ACTION: DENIED

- (3) **GLORIA CARRASCO, CASE NO. 05-1347**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a negative employment record.
ACTION: DENIED
- (4) **ERIC DAVIS, CASE NO. 05-1100**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a negative employment record, drug usage and legal issues.
ACTION: DENIED
- (5) **EDUARDO GARCIA, CASE NO. 05-1814**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information.
ACTION: GRANTED
- (6) **KIMBERLY PEARCE, CASE NO. 05-0583**
Classification: Youth Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and had a negative employment record.
ACTION: DENIED
- (7) **CAMRIN SERVIO, CASE NO. 05-2874**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a negative employment record.
ACTION: DENIED
- (8) **CREED TAYLOR, CASE NO. 05-2513**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; omitted pertinent information and had a negative employment record.
ACTION: DENIED
- (9) **JERRY WILSON, CASE NO. 05-2509**
Classification: Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: Suitability; a negative employment history, military record, law enforcement contacts and drug usage
ACTION: DENIED

B. MEDICAL AND PSYCHOLOGICAL SCREENING APPEALS

NONE

**C. EXAMINATION APPEALS
MINIMUM QUALIFICATIONS
MERIT ISSUE COMPLAINTS**

NONE

**D. RULE 211 APPEALS
RULE 212 OUT OF CLASS APPEALS
VOIDED APPOINTMENT APPEALS**

NONE

E. REQUEST TO FILE CHARGES CASES

Investigated by Appeals Division staff. The Board was presented recommendations by Appeals Division staff for final decision on each request.

On August 8, 2006, the Board adopted, as indicated below, the following items presented by Laura M. Aguilera, Assistant Executive Officer, State Personnel Board.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

(1) JEFF AND NANCY HEMPHILL, CASE NO. 05-3811

Classification: Members of the Public

Department: Department of Water Resources

Issue: The charging party requests to file charges against employees of the Department of Water Resources

ACTION: DENIED

(2) ROBERT LEFORT, CASE NO. 05-4564

Classification: Civilly Committed Patient at Atascadero State Hospital

Department: Department of Mental Health

Issue: The charging party requests to file charges against an employee of the Atascadero State Hospital.

ACTION: DENIED

- (3) **GREGORY PETERS, CASE NO. 05-2130**
Classification: Civilly Committed Patient at Atascadero State Hospital
Department: Department of Mental Health
Issue: The charging party requests to file charges against an employee of the Atascadero State Hospital.
ACTION: DENIED
- (4) **MICHAEL ST. MARTIN, CASE NO. 05-2505**
Classification: Civilly Committed Patient at Atascadero State Hospital
Department: Department of Mental Health
Issue: The charging party requests to file charges against an employee of the Atascadero State Hospital.
ACTION: DENIED
- (5) **RONALD WOOD, CASE NO. 05-1176**
Classification: Former Correctional Officer
Department: Department of Corrections and Rehabilitation
Issue: The charging party requests that charges be filed against the charged party for violations of various subsections of Government Code, section 19572.
ACTION: DENIED

PETITIONS FOR REHEARING CASES

NONE

SUBMITTED

1. TEACHER STATE HOSPITAL (SEVERELY), ETC.

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

2. VOCATIONAL INSTRUCTOR (SAFETY)(VARIOUS SPECIALTIES)

Departments of Mental Health and Developmental Services. (Hearing held December 3, 2002.)

NO ACTION

3. TELEVISION SPECIALIST (SAFETY)

The Department of Corrections proposes to establish the new classification Television Specialist (Safety) by using the existing Television Specialist class specification and adding "Safety" as a parenthetical to recognize the public aspect of their job, additional language will be added to the Typical Tasks section of the class specification and a Special Physical Characteristics section will be added. (Presented to Board March 4, 2003.)

NO ACTION

4. HEARING – Personal Services Contract #04-03

Appeal of the California State Employees Association from the Executive Officer's April 15, 2004, Approval of Master Contracts between the California Department of Corrections and Staffing Solutions, CliniStaff, Inc., Staff USA, Inc., CareerStaff Unlimited, MSI International, Inc., Access Medical Staffing & Service, Drug Consultants, Infinity Quality Services Corporation, Licensed Medical Staffing, Inc., Morgan Management Services, Inc., Asereth Medical Services, and PrideStaff dba Rx Relief. (Hearing held August 12, 2004.)

NO ACTION

5. HEARING

Proposed new and revised State Personnel Board Regulations effecting equal opportunity, discrimination complaints and reasonable accommodation policies and procedures. (Hearing held July 7, 2004.)

NO ACTION

6. JUDY JOHNSON, CASE NO. 05-1367A

Appeal from automatic resignation. Motor Vehicle Field Representative. Department of Motor Vehicles. (Oral argument, Written Record submitted May 2, 2006.)

ACTION: The Board issued a non-precedential decision revoking the Department of Motor Vehicle's attempt to terminate appellant's employment as a permanent-intermittent Motor Vehicle Field Representative pursuant to the "automatic resignation" provisions of SPB rule 448. Appellant is reinstated to her position with all appropriate back pay and benefits.

7. HEARING – Public Hearing Regarding State Employment Application (STD. 678 (Rev/ 12/2001))

Should the Instructions section of the state employment application, pursuant to Richard Toby (2001) SPB Dec. No. 01-04, clarify whether employees who have been rejected during their probationary period be required to answer “Yes” to Question No. 5 of the employment application? (Hearing held July 11, 2006.)

NO ACTION

8. PRECILLA CALAUNAN, CASE NO. 05-1737RPA

Appeal from dismissal. Psychiatric Technician Assistant. Department of Developmental Services. (Oral argument held July 11, 2006.)

NO ACTION

9. PAUL CHATHAM, CASE NO. 05-1287A & SARAH WIRTH, CASE NO. 05-1599A

Appeal from five percent reduction in salary for six months and two work days suspension. Correctional Lieutenant and Correctional Sergeant. Department of Corrections and Rehabilitation. (Oral argument held July 11, 2006.)

NO ACTION

10. DANNY BROWN, CASE NO. 05-2209A

Appeal from dismissal. Correctional Officer. Department of Corrections and Rehabilitation. (Oral argument held August 8, 2006.)

ACTION: The Board adopted the ALJ's Proposed Decision sustaining the appellant's dismissal.

11. LEE KENDRICK, III, CASE NO. 04-1620PA

Appeal from dismissal. Transportation Surveyor. Department of Transportation. (Oral argument held August 8, 2006.)

NO ACTION

12. RAYMOND SLEDGE, CASE NO. 04-2809PA

Appeal from dismissal. Youth Correctional Officer. Department of the Youth Authority. (Oral argument held August 8, 2006.)

NO ACTION

NOTICE OF GOVERNMENT CODE SECTION 18671.1 RESOLUTION

Since Government Code section 18671.1 requires that cases pending before State Personnel Board Administrative Law Judges (ALJ's) be completed within six months or no later than 90 days after submission of a case, whichever is first, absent the publication of substantial reasons for needing an additional 45 days, the Board hereby publishes its substantial reasons for the need for the 45-day extension for some of the cases now pending before it for decision.

An additional 45 days may be required in cases that require multiple days of hearings, that have been delayed by unusual circumstances, or that involve any delay generated by either party (including, but not limited to, submission of written briefs, requests for settlement conferences, continuances, discovery disputes, pre-hearing motions). In such cases, six months may be inadequate for the ALJ to hear the entire case, prepare a proposed decision containing the detailed factual and legal analysis required by law, and for the State Personnel Board to review the decision and adopt, modify or reject the proposed decision within the time limitations of the statute.

Therefore, at its next meeting, the Board will issue the attached resolution extending the time limitation by 45 days for all cases that meet the above criteria, and that have been before the Board for less than six months as of the date of the Board meeting.

GOVERNMENT CODE SECTION 18671.1 RESOLUTION

WHEREAS, Section 18671.1 provides that, absent waiver by the appellant, the time period in which the Board must render its decision on a petition pending before it shall not exceed six months from the date the petition was filed or 90 days from the date of submission; and

WHEREAS, Section 18671.1 also provides for an extension of the time limitations by 45 additional days if the Board publishes substantial reasons for the need for the extension in its calendar prior to the conclusion of the six-month period; and

WHEREAS, the Agenda for the instant Board meeting included an item titled "Notice of Government Code section 18671.1 Resolution" which sets forth substantial reasons for utilizing that 45-day extension to extend the time to decide particular cases pending before the Board;

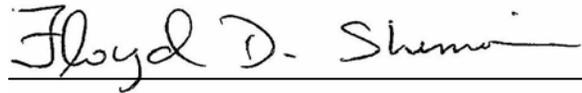
WHEREAS, there are currently pending before the Board cases that have required multiple days of hearing and/or that have been delayed by unusual circumstances or by acts or omissions of the parties themselves;

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the time limitations set forth in Government Code section 18671.1 are hereby extended an additional 45 days for all cases that have required multiple days of hearing or that have been delayed by acts or omissions of the parties or by unusual circumstances and that have been pending before the Board for less than six months as of the date this resolution is adopted.

* * * * *

I hereby certify that the State Personnel Board made and adopted the preceding resolution at its meeting held on August 8, 2006.

VOTE: Elkins, Harrigan, Tom, Sheehan – Aye

A handwritten signature in black ink that reads "Floyd D. Shimomura". The signature is written in a cursive style and is positioned above a solid horizontal line.

Floyd Shimomura
Executive Officer
California State Personnel Board